

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

JOHN DOE,

Plaintiff,

—vs—

Case No. 19-cv-1348-bhl

**BOARD OF REGENTS OF THE
UNIVERSITY OF WISCONSIN SYSTEM, et al.,**

Defendants.

DECLARATION OF PETER J. CULP

Peter Culp declares as follows:

1. I am an attorney and member of the Culp Law Firm, LLC and represent the interests of the Plaintiff in the above-captioned adversary action.
2. I make this declaration in response to the Order to Show Cause issued by the Court, being duly authorized.
3. I am competent to testify to the facts contained herein.
4. The facts contained herein are based on my personal knowledge.
5. I began representing the Plaintiff while a partner and attorney with the Dempsey Law Firm, LLP.
6. In May 2020 I left the Dempsey Law Firm, LLP and started my own law practice as the Culp Law Firm, LLC. The transition was completed in June 2020. The physical file was transferred to me; the electronic files have not yet been transferred by the Dempsey Law Firm, LLP.

7. One of the administrative items that was accomplished was changing the email address from that associated with the Dempsey Law Firm, LLP to the email address associated with the Culp Law Firm, LLC.

8. I went from using a dedicated Microsoft Outlook email server system to a hosted Microsoft Outlook 365 email system. That Microsoft Outlook 365 email system had a “Focused” feature turned on by default and some of my emails were distributed to the Focused view and others to what was called “Others.” I never used the “Others” view. The emails from the district court and from Ann Bensky were not distributed to the Focus view but to the “Others” view.

9. As a result of the email system setup, I did not receive and review the email correspondence from Ann Bensky, who represents the defendants here, or the others from the District Court in a timely manner. That is the reason that I did not respond to the email correspondence from Ann Bensky in regard the joint status report. I have since turned off the “Focused” view option. Nevertheless, I take full responsibility for this error.

10. In addition, in September 2020 my assistant, with whom I have worked for a couple of years, went out on an emergency leave because she gave birth to her first born four (4) weeks early. I was without an assistant for weeks, and thereafter had to work through the trials and tribulations of a new temporary assistant. My regular legal assistant returns full time on Monday, November 16, 2020. The workload is such that I interviewed for a second assistant to help with the unexpected workload.

11. The reason the status conference on October 22, 2020, was not attended is two reasons. First, the status conference was not calendared by my assistant. Second, even if it was, unfortunately, I was attending a state court evidentiary hearing at the same time, which did not conclude until after 12 p.m. Again, I take full responsibility for this error.

12. I do not believe I have ever been the subject of any prior order to show cause issued by any district court for any failure to prosecute an action. This case is the first. I believe Judge William Griesbach, before whom I have had several cases, could confirm. Also, I have had other cases with Ann Bensky over the years and believe she can attest to the fact that I have always diligently prosecuted my cases, perhaps with an above-average level of zeal. The case before you is the exception.

13. All of the above are errors of mine and for which I take full responsibility. I am, quite frankly, embarrassed by the multiple errors and for having to respond to an order to show cause of this kind. I sincerely apologize to the Court and to Ann Bensky for all of these errors which have no doubt inconvenienced both. The above factors and reasons created a storm during the period when the errors were committed. I respectfully ask the Court and Ann Bensky for forgiveness of these errors and am willing to satisfy whatever sanction the Court deems just and reasonable absent dismissal. I would not want my client's cause to be derailed because of the errors of me as his attorney.

14. I stand ready, willing, and able to address whatever questions the Court may have to address this issue.

**I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS
TRUE AND CORRECT.**

Executed this the **6th** day of **November, 2020**.

s/ Peter J. Culp
Peter J. Culp, Bar No. 1022595